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Superior Court Of California,
Sacramento
02/26/2019
amocanu
By _____, Deputy
Case Number:
34-2019-00251335

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

KHM HOLDINGS LLC, a California limited liability company,

Plaintiffs,

v.

WILLIAM BEAHM AND GREER BEAHM,
as Trustees of the THE BEAHM FAMILY
LIVING TRUST, and DOES 1-25, inclusive,

Defendants.

Case No.

[Unlimited Jurisdiction; Damages over \$25,000]

COMPLAINT FOR:

1. Specific Performance
2. Breach of Contract

Plaintiff alleges as follows:

1. Plaintiff KHM Holdings LLC (hereinafter "Plaintiff" or "Buyer") is a limited liability company organized in and under the laws of the State of California and is authorized to do business in Sacramento County, California, and conducting business in, among other locations, Sacramento County.

2. Plaintiff is informed and believes, and thereon alleges that Defendant William Beahm is a Trustee of the The Beahm Family Living Trust and is an individual residing in the State

1 of California.

2 3. Plaintiff is informed and believes, and thereon alleges that Defendant Greer Beahm
3 is a Trustee of the The Beahm Family Living Trust and is an individual residing in the State of
4 California.

5 4. Plaintiff is informed and believes, and thereon alleges that The Beahm Family Living
6 Trust ("Trust") is the owner of that certain real property commonly known as 1131, 1135, 1141,
7 1145, 1151 Bell Street, Sacramento, Sacramento County, California 95825 ("Property").

8 5. The true names and capacities, whether individual, corporate, associate or otherwise,
9 of defendants named herein as DOES 1 through 25, inclusive, are unknown to Plaintiff, who
10 therefore sues these defendants by such fictitious names, pursuant to Section 474 of the California
11 Code of Civil procedure. Plaintiff is informed and believes, and thereon alleges, that defendants
12 DOES 1 through 25, and each of them, have some responsibility for the actions hereinafter
13 complained of and Plaintiff will seek to amend this Complaint to allege their true names and
14 capacities and to insert appropriate charging allegations concerning those defendants when their
15 true names, capacities and liabilities have been ascertained.

16 6. Plaintiff is informed and believes, and thereon alleges, that each of the defendants,
17 including each of the defendants sued herein as DOES 1 through 25, was the agent, representative
18 or employee of each of the remaining defendants, and that, in doing the things hereinafter alleged,
19 was acting within the course and scope of such agency, representation or employment.

20 **GENERAL ALLEGATIONS**

21 7. Plaintiff is informed and believes, and on the basis of that information and belief
22 alleges, that at all times mentioned in this Complaint, the Trust was and is the owner of the
23 ("Property").

24 8. Pursuant to that certain Purchase and Sale Agreement ("Agreement"), dated October
25 25, 2018, between the Trust as "Seller" and Purewal Properties, LLC as "Buyer," the Trust agreed
26 to sell and Buyer agreed to buy the Property for a purchase price of Five Million Five Hundred
27 Thousand and No/100ths Dollars (\$5,500,000.00) ("Purchase Price"). Attached hereto as Exhibit
28 1 is a true and correct copy of the Agreement. On or about December 28, 2018, Purewal Properties,

1 LLC assigned all right, title and interest in the Agreement to Plaintiff.

2 9. Seller delivered a Cancellation of Contract ("Cancellation"), dated January 18,
3 2019, seeking to rescind and cancel the Agreement on the grounds of fraud and duress, among other
4 reasons. Buyer denied the allegations and the grounds to rescind and cancel the Agreement as set
5 forth in the notice of cancellation. Buyer advised Seller that it would not execute a Cancellation
6 and instead would proceed to close escrow pursuant to the terms of the Agreement.

7 10. On January 25, 2019, Buyer delivered a notice of inspection contingency removal
8 and a demand to close escrow by February 25, 2019 as required by the terms of the Agreement.

9 11. Buyer was induced to enter and did in fact enter into a written contract (the
10 Agreement) with Seller whereby Buyer agreed to purchase and Seller agreed to sell the Property for
11 the Purchase Price. Buyer timely complied with the terms of the Agreement and incurred costs in
12 performing the Agreement.

13 12. At the time of the execution of the Purchase Agreement, the Property had a
14 reasonable value of the Purchase Price. Therefore, the agreed Price was fair, just, and adequate.

15 13. Buyer performed and tendered performance of all material conditions it was required
16 to perform under the Agreement. Seller, however, refused to sell the Property to Buyer and
17 attempted to cancel the Agreement.

18 14. Buyer is ready, willing and able to complete the purchase of the Property and seeks a
19 decree of specific performance that requires Seller to convey to Buyer good and sufficient deed to
20 the Property. Buyer incurred costs in performing the Agreement.

21 FIRST CAUSE OF ACTION

22 (Specific Performance of Contract Against Defendant Seller and Does 1-25)

23 15. Plaintiff incorporates by this reference each and every allegation contained in
24 Paragraphs 1 through 14 inclusive herein as if the same were each here set forth in full.

25 16. Pursuant to that certain Agreement entered into by and between Buyer and Seller,
26 Buyer agreed to purchase and Seller agreed to sell the Property. A true copy of the Agreement is
27 attached hereto and made part hereof as Exhibit 1.

28 17. At the time of the execution of the Agreement, the Property had a reasonable value

1 of the Purchase Price. Therefore, the agreed purchase price was fair, just, and adequate.

2 18. Buyer has performed all of the material conditions of the Agreement required to be
3 performed by Buyer. Buyer remains ready, willing, and able to perform all terms of the Agreement
4 applicable to Buyer and to receive a good and sufficient title to the Property as promised by Seller.

5 19. Seller has failed and refused, and continues to fail and refuse, to perform its part to
6 be performed in accordance with the terms and conditions of the Agreement by refusing to sell the
7 Property to Buyer or to convey good and sufficient title to the Property.

8 20. Buyer has no adequate remedy at law because the Agreement described above is a
9 Agreement for the purchase of real property. Pursuant to Civil Code §3387 money damages are
10 presumed inadequate for its breach.

11 21. Buyer seeks a decree of specific performance that requires Seller to convey to Buyer
12 good and sufficient title to the Property.

13 SECOND CAUSE OF ACTION

14 (Breach of Contract Against Defendant Seller and Does 1-25)

15 22. Plaintiff incorporates by this reference each and every allegation contained in
16 Paragraphs 1 through 21 inclusive herein as if the same were each here set forth in full.

17 23. Pursuant to that certain Agreement entered into by and between Buyer and Seller,
18 Buyer agreed to purchase and Seller agreed to sell the Property for the Purchase Price. A true copy
19 of the Agreement is attached hereto and made part hereof as Exhibit 1.

20 24. Buyer satisfied all conditions under the Agreement, and performed all of its
21 obligations thereunder except as to those conditions, covenants and promises of which it was
22 prevented or excused from performing.

23 25. Seller materially breached the express terms of the Agreement by failing to comply
24 with the terms thereof, including refusing to sell the Property to Buyer and attempting to cancel the
25 Agreement.

26 26. Seller's failure and refusal to perform its obligations under the Agreement constitutes
27 a breach of contract which has caused damage to Buyer. At the time of the breach by Seller, Buyer
28 was damaged in the amount constituting of the difference between the agreed price of the Purchase

1 Price of the Property and the approximate value as of the date of the breach, damage by the delay of
2 Seller in conveying the Property in an amount to be proven at the time of trial, costs associated with
3 the Agreement and preparing to accept title to the Property, and attorneys' fees and costs in
4 enforcing its rights under the Agreement.

5 27. The Agreement at Paragraph 10 provides for an award to the prevailing party of
6 attorney fees and costs incurred to enforce the Agreement. Buyer has been required to retain and
7 engage Real Estate Law Group LLP as its counsel to commence and prosecute the within action.
8 Pursuant to the Agreement, Buyer is entitled to recover its reasonable attorney's fees and costs
9 incurred in connection with the prosecution of this action.

10 WHEREFORE, Plaintiff Buyer prays for judgment against Defendant Seller as follows:

- 11 1. For an order that Defendant Seller and their agents specifically perform the
12 Agreement and deliver the Property, loss of possession and use of the Property
13 during the time after the breach to be determined at trial, loss of income to be
14 determined at trial, net losses of profit suffered by the delay in conveying property
15 based on an accounting to be determined at trial;
- 16 2. In the event the court does not order specific performance of the Agreement, for
17 compensatory damages to be determined at trial in excess of \$100,000 for breach of
18 contract of the difference between the fair market value of the property and the
19 purchase price as of the date of breach to be determined at trial, deposit plus loss of
20 use interest, expenses for examining title and preparing documents for purchase,
21 expenses in preparing to occupy the Property, costs incurred before the anticipated
22 close of escrow, interest 10% under Civil Code Section 3289 incurred after breach,
23 and consequential damages;
- 24 3. For Plaintiff's reasonable attorney's fees and costs incurred herein pursuant to
25 contract, Paragraph 10;
- 26 4. For Plaintiff's costs of suit incurred herein; and
- 27 5. For such other and further relief as the Court may deem just and proper.
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1 Dated: February 25, 2019

REAL ESTATE LAW GROUP LLP

2
3 Jason L. Hoffman

4 Attorney for Plaintiff KHM Holdings LLC

5 **JURY DEMAND**

6 PLAINTIFFS HEREBY DEMANDS A JURY TRIAL ON ALL ISSUES.
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EXHIBIT 1

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement ("Agreement") is entered into as of October 25, 2018 by and between PUREWAL PROPERTIES LLC, a California limited liability company ("Buyer"), and William Beahm and Greer Beahm, as Trustee of THE BEAHM FAMILY LIVING TRUST ("Seller"), with respect to the following facts.

A. Seller is the owner of that certain real property consisting of fifty-four (54) apartment units and commonly known as 1131, 1135, 1141, 1145, 1151 Bell Street, Sacramento, California 95825 and referenced as Bell Oaks Apartments, APNs: 285-0201-002, 285-0201-003 (the "Property").

B. Buyer desires to buy from Seller and Seller desires to sell to Buyer. Seller's interest in the Property upon the following terms and conditions.

NOW, THEREFORE, the parties agree as follows:

1. Purchase Price.

a. Seller shall sell, and Buyer shall buy, Seller's fee simple interest in the Property for a purchase price of Five Million and Five Hundred Thousand and 00/100 Dollars (\$5,500,000.00) (the "Purchase Price"), payable by Buyer on or before Closing (as defined herein).

2. Conveyance: Evidence of Title.

a. At Closing, Seller shall convey to Buyer by grant deed fee title to the Property, subject only to the exceptions listed in Preliminary Title Report generated by the Title Company (as defined herein).

b. Evidence of title to the Property shall be in the form of a California Land Title Association Owner's Policy of title insurance ("Owner's Title Policy"), insuring title in Buyer in the amount of the Purchase Price.

3. Buyer's Inspection Contingency. The parties acknowledge and agree that (i) Buyer will have sixty (60) days from the Effective Date to inspect the Property and conduct all of its investigations and inspections and the Buyer's performance under this contract is contingent on the Buyer being satisfied with the condition of the Property, and (ii) the Buyer can only remove this contingency by giving written notice to the Seller.

4. Escrow. Upon mutual execution of this Agreement, escrow will be opened with First American Title Insurance Company, 3001 I St., Sacramento, California, Attention Lesley Kaufman (the "Title Company"). Each party shall timely deposit such documents, monies, and written escrow instructions with Title Company as may be necessary for the conveyance of the Property in accordance with the terms of this Agreement.

5. Closing. Escrow shall close on or before thirty (30) days after the removal of the Buyer's Inspection Contingency (the "Closing").

6. Closing Costs and Prorations. The closing costs shall be paid as follows:

Escrow Fees:	Split Equally – Buyer and Seller
Owner's Title Policy:	Seller
County Transfer Tax:	Seller
City Transfer Tax	Seller

Rents, security deposits, real property taxes and assessments shall be prorated as of the Closing based upon the latest available tax and assessment information.

7. Assignment. Buyer may assign its interest in this contract to any party without the consent of the Seller.

8. Broker's Commissions. The parties acknowledge that Kidder Mathews c/o Ben Frazier represents both parties and the Seller will pay him a commission equal to five percent (5%) of the Purchase Price at Closing. The parties each covenant to the other that they have not entered into any agreement or incurred any obligation which might result in the obligation of the other party to pay any other sales or brokerage commission or finder's fee on this transaction to any party or company except as expressly stated herein.

9. Distribution of Sale Proceeds to Seller. The parties acknowledge and agree that the net sale proceeds at Closing shall be distributed to the Seller as follows: (1) sixty-five percent (65%) to Greer Beahm; and (2) thirty-five percent (35%) to William Beahm.

10. Standard Provisions.

a. This Agreement shall inure to the benefit of and be binding upon the parties' heirs, successors and assigns.

b. This Agreement supersedes any prior agreements and contains the entire agreement of the parties. No other agreement, statement or promise made by any party or agent of any party that is not in writing and signed by all the parties to this Agreement shall be binding. Any amendments to this Agreement shall be in writing and signed by all the parties.

c. This Agreement may be executed by facsimile and in counterparts, each of which shall be deemed to be an original, but such counterparts when taken together shall constitute one Agreement.

d. If any party institutes an action to enforce its rights under this Agreement, the losing party shall pay to the prevailing party the attorneys' fees and costs incurred by the prevailing party in such action.

e. If there is any damage or destruction to the Property prior to the Closing, then the Buyer shall have at its option to either move forward with the transaction in which case it will be entitled to the full insurance proceeds of such damage or destruction; or the Buyer may terminate the transaction and be entitled to a full refund of any money in escrow.

f. Possession of the Property shall be given to Buyer at the Closing subject to the rights of tenants under any existing leases.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the first date set forth above.

SELLER

BEAHM FAMILY LIVING TRUST


WILLIAM BEAHM, Trustee


GREER BEAHM, Trustee

BUYER:

PUREWAL PROPERTIES LLC, a California limited liability company


MANROOP PUREWAL, Managing Member

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COMPTON COURTHOUSE
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO